

ARTICLE 21

FP - FLOODPLAIN DISTRICT

Legislative Intent. The Floodplain (FP) District is created for the purpose of imposing special regulations in designated flood hazard areas of the Town. The purpose of these special regulations is to prevent: the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base. These special regulations are designed to: 1) regulate uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies; 2) restrict or prohibit certain uses, activities, and development from locating within districts subject to flooding; 3) require all uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and 4) protect individuals from buying land and structures which are unsuited for intended purposes because of flood hazards. The provisions of this ordinance shall apply to all lands within the Town and identified as being within the One Hundred-Year Floodplain by the Federal Insurance Administration.

21-1 Establishment of Floodplain Districts

21-1.1 Description of Flood Districts

A. Basis of Districts

The two (2) floodplain districts shall include areas subject to inundation by waters of the one hundred (100) year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for the Town of Warrenton, prepared by the U. S. Department of Housing and Urban Development, Federal Insurance Administration, dated February 1, 1979.

1. The Floodway District is delineated for purposes of this Ordinance using the criteria that a certain area within the floodplain must be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The Flood-Fringe District shall be that area of the 100-year floodplain not included in the Floodway District. The basis for the outermost boundary of this District shall be the one hundred (100) year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study and as shown on the accompanying Flood Boundary and Floodway Map.

B. Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

2. Where there happens to be any conflict between the provisions or requirements of any of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
3. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provisions shall remain applicable.

21-1.2 District Boundaries

The boundaries of the Floodplain Districts are established as shown on the Flood Boundary and Floodway Map which is declared to be a part of this ordinance.

21-1.3 District Boundary Changes

The delineation of any of the floodplain districts may be revised by the Town Council where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency or individual documents the notification for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

21-1.4 Interpretation of District Boundaries

Initial interpretation of the boundaries of the Floodplain Districts shall be made by the Planning Director. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination.

21-2 Definitions

For the purposes of this Article, the following terms and definitions shall be applicable:

Base Flood/One Hundred-Year Flood: A flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

Existing Manufactured Home Park/Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of these regulations.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood: A general and temporary inundation of normally dry land areas.

Flood-Prone Area: Any land area susceptible to being inundated by water from any source.

Historic Structure: Any structure that is a) listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; c) individually listed on the Virginia Landmarks Register; or d) individually listed on the local inventory of historic places, provided that the Warrenton preservation program has been certified by the Department of Historic Resources and/or the Secretary of the Interior.

Manufactured Home: A structure subject to Federal Regulations, which is transportable in one or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Manufactured Home Park/Subdivision: A parcel, or contiguous parcels, of land divided into two (2) or more lots, for rent or sale, intended for the placement of a manufactured home.

New Construction: For the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of this Article and includes any subsequent improvements to such structures.

New Manufactured Home Park/Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the initial effective date of these regulations.

Recreational Vehicle: A vehicle which is a) built on a single chassis; b) four hundred (400) square feet or less when measured at the largest horizontal projection; c) designed to be self-propelled or permanently towable by a light duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first

alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either 1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or 2) any alteration of a “historic structure”, provided that the alteration will not preclude the structures continued designation as a “historic structure.”

21-3 District Provisions

No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Ordinance. Prior to any proposed alterations or relocation of any channels or floodways of any watercourse, stream, etc., within the Town, approval shall be obtained from the Virginia Marine Resources Commission. Further notification of the proposal shall be given to all affected adjacent jurisdictions by the applicant. Copies of such notification shall also be forwarded by the applicant to the Zoning Administrator, the Virginia Division of Soil and Water Conservation, the Corps of Engineers, the State Water Control Board, and the Federal Insurance Administration for their approval before such a proposal is submitted to the Town.

Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within the town, approval shall be obtained from the State Water Control Board. Further notification of the proposal shall be given to all affected adjacent jurisdictions by the applicant. Copies of such notification shall also be forwarded by the applicant to the Zoning Administrator, the Virginia Division of Soil and Water Conservation, the Corps of Engineers, the State Water Control Board, and the Federal Insurance Administration for their approval before such a proposal is submitted to the Town.

Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in the one hundred (100)-year flood elevation.

Permit Requirements: All uses, activities, and development occurring within any floodplain area shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, such as the

Virginia Uniform Statewide Building Code. Prior to the issuance of any such permit, the Permit Officer shall require all applications to include compliance with all applicable state and federal laws.

21-3.1 Floodway District

In the Floodway District no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate federal, local, and/or state authorities as required. The placement of any manufactured home, except in an existing manufactured home park or subdivision, within the Floodway District is specifically prohibited.

Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within the Town, approval shall be obtained from the State Water Control Board. Further notification of the proposal shall be given to all affected adjacent jurisdictions by the applicant. Copies of such notification shall also be forwarded by the applicant to the Zoning Administrator, the Virginia Division of Soil and Water Conservation, the Corps of Engineers, the State Water Control Board, and the Federal Insurance Administration for their approval before such a proposal is submitted to the Town.

Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in the one hundred (100)-year flood elevation.

A. Permitted Uses

In the Floodway District the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

1. Public and private recreational uses and activities such as parks, day camps, picnic grounds, and golf courses.
2. Accessory residential uses such as yard areas, gardens, play areas, and pervious loading areas.
3. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.

B. Uses Permitted by Special Use Permit

The following uses and activities may be permitted by the Town Council subject to Article 4, Section 4-8 provided that they are in compliance with the provisions of the underlying district and are not prohibited by this or any other Ordinance:

1. Structures except for manufactured homes accessory to the uses and activities in Section A above.
2. Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants, and other similar or related uses.
3. Temporary uses such as circuses, carnivals, and similar activities.
4. Storage of materials and equipment provided that they are not buoyant, flammable, or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning.
5. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural developments shall be undertaken in strict compliance with the flood-proofing provisions contained in all other applicable codes and ordinances.
6. Active and passive recreation and recreational facilities.

21-3.2 Flood-Fringe District

In the Flood-Fringe District the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within the Town, approval shall be obtained from the State Water Control Board. Further notification of the proposal shall be given to all affected adjacent jurisdictions by the applicant. Copies of such notification shall also be forwarded by the applicant to the Zoning Administrator, the Virginia Division of Soil and Water Conservation, the Corps of Engineers, the State Water Control Board, and the Federal Insurance Administration for their approval before such a proposal is submitted to the Town.

Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in the one hundred (100) year flood elevation.

21-3.3 Site Plans and Permit Applications

All applications for development in the Floodplain District and all building permits issued for the Floodplain shall incorporate the following information:

1. For structures to be elevated, the elevation of the lowest floor, including basement or cellar.
2. For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
3. The elevation of the one hundred (100)-year flood.
4. Topographic information showing existing and proposed ground elevations.

21-3.4 Manufactured Homes

All manufactured homes that are placed or substantially improved must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base floor elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.

21-3.5 Recreational Vehicles

Recreational vehicles placed on sites shall either

1. Be on the site for fewer than one hundred (180) consecutive days, and
2. Be fully licensed and ready for highway use, or
3. Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the Virginia Uniform Statewide Building Code. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

21-4 Existing Structures in Floodplain Districts

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions may be continued subject to the following conditions:

- 21-4.1** Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).

21-4.2 Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

21-4.3 The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use regardless of its location in a floodplain district to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.

21-4.4 Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

21-5 Design Criteria for Utilities and Facilities

21-5.1 Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities and private package sewage treatment plants, including all pumping stations and collector systems, shall be designed to minimize the infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

21-5.2 Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration or flood waters into the system and be located and constructed to minimize or eliminate flood damages.

21-5.3 Drainage Facilities

All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites.

The Town Council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

21-5.4 Utilities

All utilities, such as gas lines, electrical, and telephone systems, being placed in flood-prone areas should be located, elevated where possible, and constructed to minimize the chance of impairment during a flood occurrence.

21-5.5 Streets and Sidewalks

Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

21-6 Variances

21-6.1 In reviewing requests for variances, the board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Zoning Ordinance and consider the following additional factors:

- The danger to life and property due to increased flood heights or velocities caused by encroachments. Variances shall not be issued for any proposed use, development, or activity within any floodway area that will cause any increase in flood levels during the one hundred (100) year flood.
- The danger that materials may be swept onto other lands or downstream to the injury of others.
- The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- The importance of the services provided by the proposed facility or use to the community.
- The availability of alternative locations for the facility not subject to flooding.
- The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the Town.
- The safety and access by ordinary emergency vehicles to the property in time of flood.
- The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters at the proposed site.
- Such other factors which are relevant to the purposes of this Ordinance.

21-6.2 The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

21-6.3 Variances shall be issued only after the Board has determined that the granting of such will not result in a) unacceptable or prohibited increase in flood heights, b) additional threats to public safety, c) extraordinary public expense, and will not d) create nuisances, e) cause fraud or victimization of the public, or f) conflict with local laws and ordinances.

Variances shall be issued only after the Board has determined that the variance will be the minimum required to provide relief from any documented hardship to the applicant.

- 21-6.4** The Board or its agent shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) -year flood elevation a) increases the risks to life and property and b) will result in increased premium rates for flood insurance.

A record will be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

- 21-6.5** The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the Floodplain District or that land uses permitted within such districts will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Town of Warrenton or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.